

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7693

Petition of Vermont Transco LLC, and Vermont)
Electric Power Company, Inc., for authority,)
pursuant to 30 V.S.A. § 248a, to install wireless)
communications facilities in the Town of Hardwick,)
Vermont, as part of a statewide radio project)

Order entered: 1/11/2011

I. INTRODUCTION

In this Order, the Vermont Public Service Board ("Board") approves the petition filed by Vermont Transco LLC, and Vermont Electric Power Company, Inc. (collectively, "VELCO" or the "Petitioner"), pursuant to 30 V.S.A. § 248a, and the Board's Order implementing standards and procedures under this section ("Procedures Order")¹, and grants the Petitioner a certificate of public good ("CPG") authorizing the installation of communications facilities located in the Town of Hardwick, Vermont (the "Project"), as part of a statewide radio project.

II. BACKGROUND

This case involves a petition and prefiled testimony filed by the Petitioner on November 24, 2010, requesting that the Board issue a CPG, pursuant to 30 V.S.A. § 248a, authorizing the construction of the facilities identified above.

On December 15, 2010, the Vermont Department of Public Service ("Department") filed a letter with the Board recommending that the Board issue a CPG for the Project without further evidence or hearings. The Department also recommends that, because the tower on which the Petitioner proposes to install its equipment has not yet been constructed by a third party, that the order include a condition requiring the Petitioner to provide a copy of any permits related to the tower construction prior to commencing construction of the instant project. No objections to the

1. Order implementing standards and procedures for issuance of a certificate of public good for communications facilities pursuant to 30 V.S.A. § 248a; Order issued August 14, 2009.

addition of this condition have been filed with the Board.² We address this proposed condition below.

No other comments or requests for hearing regarding the Project have been filed with the Board.

The Board has determined that the petition and prefiled testimony have effectively addressed the applicable substantive criteria of 30 V.S.A. § 248a. Consequently, we find that the procedure authorized by § 248a is sufficient to satisfy the public interest, and no hearings are required.

III. FINDINGS

1. The Project is part of VELCO's Statewide Radio Project ("SRP") that involves the creation of a private mobile communications network consisting of multiple wireless communications facilities. The facilities will be located throughout the state for purposes associated with utility installations, repair and maintenance of infrastructure and emergency response. Joint Panel pf. at 8.

2. The Project facilities are proposed to be located at 708 Bridgman Hill Road in Hardwick, Vermont. The facilities include co-location of antennas on a tower proposed by Rinkers Communications to be constructed at the site once the tower has received the necessary approvals. Joint Panel pf. at 3-4.

3. The Project facilities involve antenna co-locations on the proposed 180' tall tower, the construction of a 12' by 20' equipment shelter, the installation of a 500-gallon propane tank, and the installation of associated operating equipment at the Hardwick site. The site is owned by Wendell and Beverly Shepard. Joint Panel pf. at 3-5; exh. JP-3.

State Telecommunications Policy

[30 V.S.A. § 248a(a)]

4. The Project is consistent with the goal of directing the benefits of improved telecommunications technology to all Vermonters pursuant to 30 V.S.A. § 202c(b). The Project is intended to improve utility worker safety and power outage recovery time by providing a

2. The proposed tower is to be constructed and operated by Rinkers Communications under an Act 250 permit and is not part of the VELCO petition.

means of communications among VELCO utilities, and third-party contractors. Joint Panel pf. at 8.

**Aesthetics, Historical Sites, Air and Water Purity,
the Natural Environment, and Public Health and Safety**

[30 V.S.A. § 248a(c)(1)]

5. The Project will not have an undue adverse effect on aesthetics, historical sites, air and water purity, the natural environment, and the public health and safety. This finding is supported by findings 6 through 25 below, which are the criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a) (1)-(8) and (9)(k).

Outstanding Resource Waters, Headwaters

[10 V.S.A. §§ 1424a(d), 6086(a)(1)(A)]

6. The Project will have no impact on outstanding resource waters or headwaters. Joint Panel pf. at 11.

Water and Air Pollution

[10 V.S.A. § 6086(a)(1)]

7. The Project will not result in undue water or air pollution. This finding is supported by findings 8 through 10, below.

8. Dust associated with construction vehicles will be very minor and will be controlled at the site. No clearing is proposed in connection with the Project. Tomberg pf. at 3.

9. The Project does not require a stormwater discharge authorization because the Project involves less than one acre of impervious surfaces. Tomberg pf. at 3.

10. The Radio Frequency Radiation (RFR) associated with the Project will meet all standards prescribed by the Federal Communications Commission. Joint Panel pf. at 9; exh JP-3.

Waste Disposal

[10 V.S.A. § 6086(a)(1)(B)]

11. The Project does not involve disposal of wastes or injection of any material into ground water or wells. Joint Panel pf. at 11-12.

Water Conservation, Sufficiency of Water, and Burden on Existing Water Supply

[10 V.S.A. §§ 6086(a)(1)(C),(a)(2) and (3)]

12. The Project will have no impact on water conservation measures, as the Project will not be connected to water supplies. Tomberg pf. at 4.

Floodways

[10 V.S.A. § 6086(a)(1)(D)]

13. The Project is not located in a floodway. Tomberg pf. at 4.

Streams

[10 V.S.A. § 6086(a)(1)(E)]

14. The Project will not be located on, adjacent to, or near any streams or other water bodies. Tomberg pf. at 4.

Shorelines

[10 V.S.A. § 6086(a)(1)(F)]

15. The Project is not located on a shoreline. Tomberg pf. at 4.

Wetlands

[10 V.S.A. § 6086(a)(1)(G)]

16. The Project is not located near any wetlands. Tomberg pf. at 5.

Soil Erosion

[10 V.S.A. § 6086(a)(4)]

17. The Project will not cause unreasonable soil erosion or a reduction in the capacity of the land to hold water. All construction work will comply with Vermont standards and specifications for erosion and sediment control. Tomberg pf. at 4-5.

Transportation System

[10 V.S.A. § 6086(a)(5)]

18. The Project will not cause unreasonable congestion or unsafe conditions with respect to use of the highways, waterways, railways, airports or airways, and other means of transportation existing or proposed. Traffic, following construction, will be limited to monthly maintenance visits. Joint Panel pf. at 12.

Educational Services

[10 V.S.A. § 6086(a)(6)]

19. The Project will not cause an unreasonable burden on the ability of a municipality to provide educational services. Educational services will not be impacted by the Project. Joint Panel pf. at 11-12.

Municipal Services

[10 V.S.A. § 6086(a)(7)]

20. The Project will not place an unreasonable burden on the ability of the local government to provide municipal or governmental services. The Project will not require any additional municipal or governmental services. Joint Panel pf. at 13.

Aesthetics, Historical Sites, and Rare and Irreplaceable Natural Areas

[10 V.S.A. § 6086(a)(8)]

21. The Project will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas. This finding is supported by findings 22 through 24, below.

22. The Project will not have adverse impacts on the aesthetics and scenic beauty of the area because the most visible portion of the Project involves the co-location of three antennas on the proposed 180' tall tower. The equipment shelter and propane tank will be located at the base of tower. Joint Panel pf. at 14; exh. JP-3.

23. There are no rare or irreplaceable natural areas or historic sites within the vicinity of the Project site. Joint Panel pf. at 15-16; Tomberg pf. at 6; exh. JP-3.

24. There are no known endangered species sites or areas of necessary wildlife habitat in the Project area. Tomberg pf. at 6.

Development Affecting Public Investments

[10 V.S.A. § 6086(a)(9)(K)]

25. The Project will not unnecessarily or unreasonably endanger any public or quasi-public investment in the facility, service, or lands, or materially jeopardize or interfere with the function, efficiency, or safety of, or the public's use or enjoyment of or access to public investments. Joint Panel pf. at 13.

Town and Regional Plans

[30 V.S.A. § 248a(c)(2)]

26. By facilitating the expansion of telecommunications coverage in the area, the Project is consistent with the land conservation measures contained in the Hardwick Town Plan and the Northeast Kingdom Regional Plan. Joint Panel pf. at 17-19.

State and Local Permits

[30 V.S.A. § 248a(d)]

27. The Project is consistent with existing permits relating to the parcel on which the Project site is to be located. Joint Panel pf. at 22.

Discussion

Because the tower on which the Project is to be co-located has not yet received its permitting approval, the Department proposes a condition requiring VELCO to file a copy of all permits related to the tower construction prior to commencing the construction related to the Project. We adopt the Department's proposed condition with one significant modification. In order to ensure that the CPG for the Project is consistent with the permits ultimately issued to the tower, we will: (1) require VELCO, when it files the tower permit(s), to include a narrative fully explaining the extent to which the Project is consistent with any permit conditions and an explanation of any inconsistencies; and (2) prohibit commencement of site preparation for and construction of the Project absent further Board approval.

IV. DISCUSSION & CONCLUSION

Pursuant to 30 V.S.A. §248a(a):

Notwithstanding any other provision of law, if the applicant seeks approval for the construction or installation of telecommunications facilities that are to be interconnected with other telecommunications facilities proposed or already in existence, the applicant may obtain a certificate of public good issued by the public service board under this section, which the board may grant if it finds that the facilities will promote the general good of the state consistent with subsection 202c(b) of this title.

Further, pursuant to the Procedures Order:

Unless the Board determines that an application raises a significant issue, it shall issue a final determination on an application within 90 days of its filing

Based upon all of the above evidence, the petition does not raise a significant issue with respect to the relevant substantive criteria of 30 V.S.A. § 248a, the public interest is satisfied by the procedures authorized in 30 V.S.A. § 248a, and the proposed Project will promote the general good of the State.

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that the installation and operation of communications facilities at the location specified in the above findings, by Vermont Transco LLC, and Vermont Electric Power Company, Inc., in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State of Vermont in accordance with 30 V.S.A. § 248a(a), and a certificate of public good to that effect shall be issued in this matter.

Dated at Montpelier, Vermont, this 11th day January, 2011.

<u>s/ James Volz</u>)	
)	
<u>s/ David C. Coen</u>)	PUBLIC SERVICE
)	
)	BOARD
)	
<u>s/ John D. Burke</u>)	OF VERMONT

OFFICE OF THE CLERK

FILED: January 11, 2011

ATTEST: s/ Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.